

### **REMARKS**

In accordance with the forgoing, claims 1, 4, 13, 21, 24, 33, 41, 44, 49, 54, 55 and 57 have been amended and claims 2, 3, 22, 23, 42 and 43 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1, 4-21, 24-41 and 44-57 are pending and under consideration.

#### **I. Objections to the Claims**

Claims 52-58 have been re-numbered by the Examiner as claims 51-57. Applicants wish to extend their gratitude to the Examiner for correcting the error.

#### **II. Rejections Under 35 USC § 112**

Claim 57 stands rejected under 35 USC § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 57 has been amended to more clearly set forth a positive recitation of the method. Accordingly, withdrawal of the rejection is respectfully requested.

#### **III. Rejections Under 35 USC § 102 and Under 35 USC § 103**

Claims 1-7, 9-11, 13-15, 19-27, 29-31, 33-35, 39-40 and 57 stand rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,957,861 to Combs et al. ("Combs"), and claims 8, 12, 16-18, 28, 32, 36-38 and 41-57 stand rejected under 35 USC § 103(a) as being unpatentable over Combs. Applicants respectfully assert that the claims of the present invention are patentably distinguishable from Combs, and the rejection is respectfully traversed.

The claims of the present invention is directed to accumulating a difference between an adaptive baseline trend and one of a most recent measured impedance and a short term trend of the measured impedances. Combs teaches the determination of edema based on the simple difference between the long term averages, not the accumulation of this difference over time, as set forth in the claims of the present invention. Therefore, the claims of

the present invention are patentably distinguishable from Combs. Accordingly, allowance of the claims is respectfully requested.

#### **IV. Conclusion**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

Stadler et al.

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Date

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